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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. **2011-833**

13 **AMELIA DE PASQUALE**
14 **1300 Hacienda Road**
La Habra, CA 90631

A C C U S A T I O N

15 **Registered Nurse License No. 342585**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 30, 1982, the Board of Registered Nursing issued Registered Nurse
24 License Number 342585 to Amelia De Pasquale (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 April 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct,

1 notwithstanding that evidence of that misconduct may be recorded in a record
2 pertaining to an arrest.

3 This section shall not be construed to apply to any drug diversion program
4 operated by any agency established under Division 2 (commencing with Section 500)
5 of this code, or any initiative act referred to in that division.

6 9. Section 493 of the Code states:

7 Notwithstanding any other provision of law, in a proceeding conducted by a
8 board within the department pursuant to law to deny an application for a license or to
9 suspend or revoke a license or otherwise take disciplinary action against a person who
10 holds a license, upon the ground that the applicant or the licensee has been convicted
11 of a crime substantially related to the qualifications, functions, and duties of the
12 licensee in question, the record of conviction of the crime shall be conclusive
13 evidence of the fact that the conviction occurred, but only of that fact, and the board
14 may inquire into the circumstances surrounding the commission of the crime in order
15 to fix the degree of discipline or to determine if the conviction is substantially related
16 to the qualifications, functions, and duties of the licensee in question.

17 As used in this section, "license" includes "certificate," "permit," "authority,"
18 and "registration."

19 10. Section 2761 of the Code states:

20 The board may take disciplinary action against a certified or licensed nurse or
21 deny an application for a certificate or license for any of the following:

22 (a) Unprofessional conduct, which includes, but is not limited to, the
23 following:

24

25 (f) Conviction of a felony or of any offense substantially related to the
26 qualifications, functions, and duties of a registered nurse, in which event the record of
27 the conviction shall be conclusive evidence thereof. . . .

28 11. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning
of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by
a licensed physician and surgeon, dentist, or podiatrist administer to himself or
herself, or furnish or administer to another, any controlled substance as defined in
Division 10 (commencing with Section 11000) of the Health and Safety Code or any
dangerous drug or dangerous device as defined in Section 4022.

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REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COSTS

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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DRUG

15. Cocaine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(6), and is a dangerous drug pursuant to Business & Professions Code section 4022.

FACTS

16. On or about the afternoon of October 13, 2007, a patrol officer with the Torrance Police Department was dispatched to investigate a report of a female (Respondent) who was in violation of a restraining order. As the officer arrived at the reported address, he observed Respondent leave the area in her vehicle traveling at a high rate of speed. The officer followed Respondent who made several quick turns in a residential area. Respondent ran a red light and accelerated at a high rate of speed, then turned onto a side street. The officer activated his emergency lights and siren and conducted a traffic stop. Respondent was ordered out of her vehicle. The officer noted she was very emotional and repeatedly apologized for attempting to evade the police. The vehicle Respondent was driving was rented. In plain view on the driver's floorboard were a pair of binoculars; a black wig and a jacket was on the backseat. A search was conducted and inside Respondent's wallet (inside her purse) was an expired driver's license belonging to Respondent's former boyfriend (T.H.), along with various health insurance cards in his name. Inside a small, zippered pouch was identification belonging to Respondent, along with two plastic straws cut to approximately 2.5 inches in length that had a white powdery residue inside. On the floor of the passenger side was a small zip-loc baggie containing a white powdery substance that later tested positive for .19 grams of cocaine. At the same time, another officer was contacting the reporting party. According to M.H.G., the daughter of T.H., she was at a nearby park having a birthday party with her family when she observed Respondent watching them from her rental vehicle, 50 yards away, in violation of the restraining order filed in case number YS017173. Respondent was arrested for possession of cocaine and controlled substance paraphernalia, as well as the violation of the restraining order.

17. On or about July 16, 2008, in the matter of *People of the State of California vs. Amelia De Pasquale*, in Los Angeles County Superior Court, case number YA069659,

Respondent pled guilty to Count One of the Complaint (possession of a controlled substance, to wit, cocaine, in violation of Health and Safety Code section 11350, subdivision (a), a felony); and Count 2 (possession of controlled substance paraphernalia, in violation of Health and Safety Code section 11364, subdivision (a), a misdemeanor).

18. On or about August 26, 2008, Respondent pled guilty to Count Three of the Complaint (violation of Penal Code section 166, subdivision (a)(4), willful disobedience of a restraining order, a misdemeanor).

19. On or about December 12, 2008, as to Count One, Respondent was placed on deferred entry of judgment for a period of 18 months, and ordered to serve 183 days in jail, with credit for 183 days. Respondent was ordered to complete a 20-session drug diversion education program and pay fees in the amount of \$250. As to Count 2, Respondent was placed on deferred entry of judgment for a period of 18 months. As to Count 3, Respondent was sentenced for this case and two others, which are described in paragraph 22, below. Respondent was placed on summary probation for three years and ordered to serve 183 days in the county jail, with credit for 183 days. Respondent was also ordered to attend, within one week of release from jail, weekly counseling sessions with a psychologist addressing her issues of substance abuse, impulse control, and obsessive conduct. Additionally, Respondent was ordered to obey the protective orders in place. The court read to Respondent the "Protective Order in Criminal Proceedings (CLETS)" and Respondent was given a copy of the post-trial probation condition protective order.

20. On or about February 11, 2010, following Respondent's successful completion of diversion, the pleas as to Counts 1 and 2 were set aside and dismissed pursuant to Penal Code section 1001.3. Probation for Count 3 is set to expire on December 11, 2011.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Illegal Possession a Controlled Substance)

21. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code for unprofessional conduct, within the meaning of section 2762, subdivision (a), in that on or about October 13, 2007, as described in paragraph 16, above, Respondent possessed a controlled substance, to wit, cocaine, and controlled substance paraphernalia.

SECOND CAUSE FOR DISCIPLINE

(August 26, 2008 Criminal Conviction for Violation of Restraining Orders)

22. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about August 26, 2008, in a criminal proceeding entitled *People of the State of California v. Amelia De Pasquale*, in Los Angeles Count Superior Court, case number 7SY09007, Respondent was convicted on her plea of nolo contendere of violating Penal Code section 166, subdivision (a)(4), willful disobedience of a court order, a misdemeanor. The plea incorporated pending case numbers YA069659-01 (see paragraphs 18-19, above), and 7WA13098-01,¹ which also charged Respondent with violation of restraining orders.

b. As a result of the conviction, on or about December 12, 2008, Respondent was sentenced for all three cases as set forth in paragraph 19, above.

c. The facts that led to the conviction are that on or about September 18, 2007, officers from the Redondo Beach Police Department went to the residence of M.H.G. regarding a

¹ The complaint in case number 7WA13098 alleged Respondent violated two counts of Pen. Code, § 166(a)(1), willfully violating a court order. M.H.G. and her father, T.H., both worked at an aerospace manufacturer. On July 2, 2007, Respondent was videotaped by surveillance cameras sitting in her vehicle in the private parking lot of the manufacturer. Respondent was contacted by security personnel, but left before the El Segundo Police Department arrived. On September 4, 2007, the police department responded to a report that Respondent was observed by an employee of the manufacturer, as well as video surveillance, placing an object on a car owned by T.H. Upon investigation, it was discovered that she had left thong panties on the driver's side view mirror. On August 26, 2008, Respondent pled nolo contendere to both counts and was convicted. (See paragraph 22, above.)


complaint of a restraining order violation. M.H.G. told the officers that on September 16, 2007, she arrived at her residence at approximately 6 a.m. and pulled into her driveway. As she was walking to the front door of her residence, Respondent pulled her vehicle directly behind M.H.G.'s vehicle and yelled something to the effect of "I need to talk to your dad. Please don't call the cops." Respondent drove off after M.H.G. told her to go away. There was an active, valid restraining order in place prohibiting Respondent from contacting or going within 100 yards of M.H.G.'s home, vehicle, workplace, her two minor children, their school and daycare. M.H.G. explained that Respondent was her father's ex-girlfriend and she had been harassing her father, and the rest of the family, since he broke up with her. She feared Respondent would hurt her.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 342585, issued to Amelia De Pasquale;
2. Ordering Amelia De Pasquale to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/11/11

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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